

Federal Acquisition Regulation

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contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor’s CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of payment” paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(End of clause)

[60 FR 48254, Sept. 18, 1995, as amended at 61 FR 45773, Aug. 29, 1996; 62 FR 12711, Mar. 14, 1997; 63 FR 9052, Feb. 23, 1998; 64 FR 10542, Mar. 4, 1999; 66 FR 2139, Jan. 10, 2001; 66 FR 53485, Oct. 22, 2001; 66 FR 65350, Dec. 18, 2001; 68 FR 56675, 56683, Oct. 1, 2003; 70 FR 57455, Sept. 30, 2005]

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

As prescribed in 12.301(b)(4), insert the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (SEP 2005)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.]

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (JUL 1995),

with *Alternate I* (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

(2) 52.219-3, Notice of Total HUBZone Set-Aside (JAN 1999) (15 U.S.C. 657a).

(3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JUL 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

(4)(i) 52.219-5, Very Small Business Set-Aside (JUN 2003) (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).

(ii) *Alternate I* (MAR 1999) of 52.219-5.

(iii) *Alternate II* (JUN 2003) of 52.219-5.

(5)(i) 52.219-6, Notice of Total Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).

(ii) *Alternate I* (OCT 1995) of 52.219-6.

(iii) *Alternate II* (MAR 2004) of 52.219-6.

(6)(i) 52.219-7, Notice of Partial Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).

(ii) *Alternate I* (OCT 1995) of 52.219-7.

(iii) *Alternate II* (MAR 2004) of 52.219-7.

(7) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637 (d)(2) and (3)).

(8)(i) 52.219-9, Small Business Subcontracting Plan (JUL 2005) (15 U.S.C. 637(d)(4)).

(ii) *Alternate I* (OCT 2001) of 52.219-9.

(iii) *Alternate II* (OCT 2001) of 52.219-9.

(9) 52.219-14, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637(a)(14)).

(10)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (SEP 2005) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

(ii) *Alternate I* (JUN 2003) of 52.219-23.

(11) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (OCT 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

(12) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

(13) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (MAY 2004).

(14) 52.222-3, Convict Labor (JUN 2003) (E.O. 11755).

(15) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JUN 2004) (E.O. 13126).

(16) 52.222-21, Prohibition of Segregated Facilities (FEB 1999).

(17) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(18) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).

(19) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(20) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the

Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).

—(21) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).

—(22)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (AUG 2000) (42 U.S.C. 6962(c)(3)(A)(ii)).

—(ii) *Alternate I* (AUG 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

—(23) 52.225-1, Buy American Act—Supplies (JUN 2003) (41 U.S.C. 10a-10d).

—(24)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (JAN 2005) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78, 108-286).

—(ii) *Alternate I* (JAN 2004) of 52.225-3.

—(iii) *Alternate II* (JAN 2004) of 52.225-3.

—(25) 52.225-5, Trade Agreements (JAN 2005) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

—(26) 52.225-13, Restrictions on Certain Foreign Purchases (MAR 2005) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

—(27) 52.225-15, Sanctioned European Union Country End Products (FEB 2000) (E.O. 12849).

—(28) 52.225-16, Sanctioned European Union Country Services (FEB 2000) (E.O. 12849).

—(29) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

—(30) 52.232-30, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

—(31) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).

—(32) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).

—(33) 52.232-36, Payment by Third Party (MAY 1999) (31 U.S.C. 3332).

—(34) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

—(35)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631).

—(ii) *Alternate I* (APR 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [Contracting Officer check as appropriate.]

—(1) 52.222-41, Service Contract Act of 1965, as Amended (JUL 2005) (41 U.S.C. 351, *et seq.*).

—(2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

—(3) 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

—(4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (FEB 2002) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

—(5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to PreDecemberess Contractor Collective Bargaining Agreements (CBA) (MAY 1989) (41 U.S.C. 351, *et seq.*).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.219-8, Utilization of Small Business Concerns (October 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small

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business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).

(vi) 52.222-41, Service Contract Act of 1965, as Amended (JUL 2005), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, *et seq.*).

(vii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor May include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

Alternate I (FEB 2000). As prescribed in 12.301(b)(4), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to “paragraphs (a), (b), (c), or (d) of this clause” in the redesignated paragraph (d) to read “paragraphs (a), (b), and (c) of this clause”.

[60 FR 48255, Sept. 18, 1995, as amended at 60 FR 67517, Dec. 29, 1995; 61 FR 31648, June 20, 1996; 61 FR 41471, Aug. 8, 1996; 63 FR 9052, 9058, Feb. 23, 1998; 63 FR 34075, June 22, 1998; 63 FR 35724, June 30, 1998; 63 FR 36124, July 1, 1998; 63 FR 70274, 70292, Dec. 18, 1998; 64 FR 10537, 10542, Mar. 4, 1999; 64 FR 72433, 72451, Dec. 27, 1999; 64 FR 72451, Dec. 27, 1999; 65 FR 24324, Apr. 25, 2000; 65 FR 36021, 36028, June 6, 2000; 65 FR 46069, July 26, 2000; 66 FR 5348, Jan. 18, 2001; 66 FR 27417, May 16, 2001; 66 FR 53489, Dec. 21, 2001; 67 FR 21536, Apr. 30, 2002; 68 FR 13203, Mar. 18, 2003; 68 FR 28097, May 22, 2003; 68 FR 56675, 56685, 56686, Oct. 1, 2003; 69 FR 1055, Jan. 7, 2004; 69 FR 16150, Mar. 26, 2004; 69 FR 17770, Apr. 5, 2004; 69 FR 34240, June 18, 2004; 69 FR 59700, Oct. 5, 2004; 69 FR 59700, Oct. 5, 2004; 69 FR 76354, Dec. 20, 2004; 69 FR 77876, Dec. 28, 2004; 70 FR 18959, Apr. 11, 2005; 70 FR 33661, 33667, June 8, 2005; 70 FR 43583, July 27, 2005; 70 FR 57463, Sept. 30, 2005]

52.213-1 Fast Payment Procedure.

As prescribed in 13.404, insert the following clause:

FAST PAYMENT PROCEDURE (FEB 1998)

(a) *General*. The Government will pay invoices based on the Contractor's delivery to a post office or common carrier (or, if shipped by other means, to the point of first receipt by the Government).

(b) *Responsibility for supplies*. (1) Title to the supplies passes to the Government upon delivery to—

(i) A post office or common carrier for shipment to the specific destination; or

(ii) The point of first receipt by the Government, if shipment is by means other than Postal Service or common carrier.

(2) Notwithstanding any other provision of the contract, order, or blanket purchase agreement, the Contractor shall—

(i) Assume all responsibility and risk of loss for supplies not received at destination, damaged in transit, or not conforming to purchase requirements; and

(ii) Replace, repair, or correct those supplies promptly at the Contractor's expense, if instructed to do so by the Contracting Officer within 180 days from the date title to the supplies vests in the Government.

(c) *Preparation of invoice*. (1) Upon delivery to a post office or common carrier (or, if shipped by other means, the point of first receipt by the Government), the Contractor shall—

(i) Prepare an invoice as provided in this contract, order, or blanket purchase agreement; and

(ii) Display prominently on the invoice “FAST PAY.”

(2) If the purchase price excludes the cost of transportation, the Contractor shall enter the prepaid shipping cost on the invoice as a separate item. The Contractor shall not include the cost of parcel post insurance. If transportation charges are stated separately on the invoice, the Contractor shall retain related paid freight bills or other transportation billings paid separately for a period of 3 years and shall furnish the bills to the Government upon request.

(3) If this contract, order, or blanket purchase agreement requires the preparation of a receiving report, the Contractor shall prepare the receiving report on the prescribed form or, alternatively, shall include the following information on the invoice, in addition to that required in paragraph (c)(1) of this clause:

(i) A statement in prominent letters “NO RECEIVING REPORT PREPARED.”

(ii) Shipment number.

(iii) Mode of shipment.

(iv) At line item level—

(A) National stock number and/or manufacturer's part number;